

1 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

2 -----x  
UNITED STATES OF AMERICA,

3 Plaintiff,

Docket No.:  
09 CR 663(S-1)

4 versus

5 NAJIBULLAH ZAZI,

U.S. Courthouse  
225 Cadman Plaza East  
Brooklyn, NY 11201

6 Defendant.

7 -----x  
February 22, 2010  
2:30 p.m.

8  
9 Transcript of Criminal Cause for Pleading

10 Before: HONORABLE RAYMOND J. DEARIE,  
District Court Chief Judge

11  
12 APPEARANCES

13 For the Government: BENTON J. CAMPBELL, ESQ.  
United States Attorney  
14 Eastern District of New York  
271 Cadman Plaza East  
15 Brooklyn, New York 11201  
BY: JEFFREY KNOX, ESQ.,  
16 DAVID BITKOWER, ESQ.,  
Assistant U.S. Attorneys

17 For the Defendant: WILLIAM J. STAMPUR, ESQ.

18 Court Reporter: LISA SCHMID, CCR, RMR  
19 Official Court Reporter  
225 Cadman Plaza East  
20 Brooklyn, New York 11201  
Phone: 718-613-2644

21 Proceedings recorded by mechanical stenography. Transcript  
22 produced by computer-aided transcription.

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25  
LISA SCHMID, CCR, RMR  
OFFICIAL COURT REPORTER

1 THE COURT: All right. Good afternoon, everyone.  
2 Please be seated.

3 THE CLERK: May we have the defendant out?

4 We are on this afternoon for a pleading. This is USA  
5 versus Zazi, Docket Number CR 09 663 S-1. Can I ask the  
6 attorneys, please, to note their appearance, beginning with  
7 counsel for the government?

8 MR. KNOX: Jeff Knox, David Bitkower for the  
9 government. Good afternoon, Your Honor.

10 THE COURT: Hello.

11 MR. STAMPUR: William J. Stampur for Mr. Zazi. Good  
12 afternoon, Judge.

13 THE COURT: Mr. Stampur, good afternoon.

14 Mr. Zazi, good afternoon.

15 THE DEFENDANT: Good afternoon.

16 THE COURT: Are we ready to proceed?

17 MR. STAMPUR: We are, Judge.

18 MR. KNOX: Yes, Your Honor.

19 THE COURT: Mr. Stampur, I take it the application is  
20 to withdraw the previously-entered plea?

21 MR. STAMPUR: That is correct, Your Honor.

22 THE COURT: Swear the defendant, please.

23 THE CLERK: Mr. Zazi, please raise your right hand.

24 (Defendant sworn.)

25 THE DEFENDANT: Truth.

1 THE COURT: Thank you.

2 Mr. Zazi, I have to ask you a number of questions, as  
3 I am sure Mr. Stampur has told you. If there is anything I say  
4 to you that isn't entirely clear, do not hesitate to say so.

5 THE DEFENDANT: Yes.

6 THE COURT: It is critical that you understand  
7 everything being said here in the courtroom. And if there is  
8 any reason that you're not entirely sure, let me know that, and  
9 we will do our best to rephrase or clarify any questions. Do  
10 you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Along that same line, if you wish at any  
13 time to confer with Mr. Stampur, simply ask me, and I'll give  
14 you whatever time you need to speak privately with him.

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: We're in no hurry here, so you take your  
17 time, and be comfortable that you understand exactly what's  
18 transpiring.

19 You also should also bear in mind that you're now  
20 under oath. That means that your answers to my questions must  
21 be truthful. If they were not in any material way, you could  
22 subject yourself to further criminal charges for the offense of  
23 perjury, which is lying while under oath. Do you understand  
24 that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Mr. Zazi, first of all, have you had  
2 sufficient time to consider your decision to offer these pleas  
3 of guilty?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: And are you satisfied with Mr. Stampur's  
6 representation?

7 THE DEFENDANT: That's correct.

8 THE COURT: Please state your full name for the  
9 record.

10 THE DEFENDANT: Najibullah Zazi.

11 THE COURT: And how old are you, sir?

12 THE DEFENDANT: Twenty-five, sir.

13 THE COURT: And what schooling or formal education  
14 have you had?

15 THE DEFENDANT: From Flushing High School, Queens, New  
16 York.

17 MR. STAMPUR: He did not graduate, Your Honor, but he  
18 went to high school.

19 THE COURT: And you read and write in English, I  
20 assume?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you presently or have you recently  
23 been under the care of a physician or any medical professional?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Or psychiatric professional?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: In the past 24 hours, have you had any  
3 drugs, alcohol or anything of that sort?

4 THE DEFENDANT: No.

5 THE COURT: Are you taking medication at this time?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: How is your health?

8 THE DEFENDANT: Good enough.

9 THE COURT: All right. You're comfortable? You can  
10 understand what I'm saying to you now?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Have you at any time had difficulty with  
13 drugs or alcohol?

14 THE DEFENDANT: I never took it.

15 THE COURT: Mr. Stampur, in your discussions with your  
16 client, are you satisfied that he understands the rights that  
17 he is waiving by waiving indictment, and by pleading guilty?

18 MR. STAMPUR: Yes, Your Honor.

19 THE COURT: Is he, in your judgment, competent to  
20 proceed and capable of understanding the nature of these  
21 proceedings?

22 MR. STAMPUR: Yes, sir Your Honor.

23 THE COURT: And again, Mr. Zazi, you are pleased and  
24 satisfied with Mr. Stampur's representation?

25 THE DEFENDANT: That's correct, Your Honor.

1           THE COURT: Now, sir, the first order of business is  
2 what's commonly referred to as a waiver of indictment. The  
3 Information that the U. S. Attorney seeks to file as a formal  
4 charging instrument, charges three separate offenses, each of  
5 which carries a potential sentence well in excess of one year.  
6 Those charges are, by definition, felonies.

7           The Constitution of the United States provides that no  
8 person shall be charged with any felony, except by indictment  
9 presented by a grand jury. You have the right, therefore, sir,  
10 to refer this matter and these charges to a grand jury for  
11 their consideration as to whether or not formal charges should  
12 be presented. Do you understand that?

13           THE DEFENDANT: Yes.

14           THE COURT: You could waive that right, as appears to  
15 be your intention. Before you do that, I should tell you a  
16 little bit more about the grand jury, and I fully appreciate  
17 that the grand jury has already in this case heard evidence,  
18 and returned formal charges.

19           A grand jury, sir, is a group of people drawn from our  
20 community. The responsibility of the grand jury is not to  
21 determine whether a defendant is guilty or not guilty, but only  
22 whether or not there is probable cause to believe that an  
23 offense has been committed.

24           A grand jury is comprised of a total of 23 jurors.  
25 There must be 16 present to constitute a quorum for the conduct

1 of business of the grand jury, and 12 of those jurors must  
2 agree that probable cause has been established before that  
3 body, the grand jury, is empowered to charge you or anyone with  
4 a felony.

5 That means that if presented with the evidence in this  
6 case, the grand jury may or may not indict you on these  
7 specific charges. If they were to decline to do so, the United  
8 States Attorney would be powerless to charge you with these  
9 offenses specifically, although they would have the opportunity  
10 to re-present the matter to the grand jury or to present the  
11 matter to another grand jury. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Now, if you waive your right to proceed  
14 before the grand jury, we would then proceed just as if the  
15 grand jury had indicted you on these three specific offenses.  
16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Is the subject matter of the waiver of the  
19 grand jury one of the subjects you have discussed with  
20 Mr. Stampur?

21 THE DEFENDANT: Yes, I did.

22 THE COURT: Are you fully confident, sir, that you  
23 understand your rights before the grand jury?

24 THE DEFENDANT: That's right.

25 THE COURT: Do you have any questions that you would

1 like to put to me about any aspect of that?

2 THE DEFENDANT: At this point? No, sir.

3 THE COURT: And Mr. Stampur, you have, of course, just  
4 to confirm for the record, fully discussed this aspect of the  
5 plea with your client?

6 MR. STAMPUR: I have, Your Honor.

7 THE COURT: All right. The Court finds here that the  
8 defendant has, here in open court, in the presence and with the  
9 advice of counsel, knowingly and voluntarily waived his right  
10 to proceed before the grand jury.

11 I note before me a signed Waiver of Indictment form.  
12 I will add my signature to indicate my findings as the  
13 presiding judicial officer, and tender it to the clerk of the  
14 court.

15 Ellie? (Handing.)

16 THE CLERK: (Retrieves document.) Thank you.

17 THE COURT: As I said a moment ago, Mr. Zazi, we now  
18 proceed just as if the grand jury had indicted you on these  
19 specific charges, the substance of which I will get to in just  
20 a moment.

21 Okay. Now, by that, I mean you have an absolute  
22 right, notwithstanding whatever discussions you have had with  
23 the government and with counsel, you have an absolute right as  
24 you stand there to plead not guilty to these charges. Do you  
25 understand that?



1 THE DEFENDANT: Yes, Your Honor. I do.

2 THE COURT: I'm sorry?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: If you were to plead not guilty, under our  
5 Constitution and laws, you would be entitled to a speedy and  
6 public trial by jury with the assistance of counsel on the  
7 charges reflected in the superseding information, as well as  
8 presumably the charges in the underlying indictment. Do you  
9 understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: At trial, you would be presumed innocent  
12 of all charges, and I would instruct the jury to that effect in  
13 no uncertain terms. You understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: The government would have the burden of  
16 attempting to prove -- to convince the jury of your guilt by  
17 competent evidence, and beyond a reasonable doubt. You would  
18 have no burden whatsoever. You could sit back, say nothing, do  
19 nothing. Simply put, the government to the burden of  
20 attempting to convince the jury of your guilt, as I said,  
21 beyond a reasonable doubt. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: That means, of course, that if the  
24 government would were to fail for any reason, technical or  
25 otherwise, the jury would be required to, under my

1 instructions, find you not guilty, even if you committed these  
2 offenses. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Now, in the course of the trial, witnesses  
5 for the government would be required to come here to court and  
6 testify under oath in your presence, in the presence of your  
7 attorney. You would have a right, therefore, to confront each  
8 of these witnesses face-to-face, here in the courtroom.

9 You would have the right, through counsel, to  
10 cross-examine each of the government's witnesses, and when  
11 appropriate, to object to evidence offered by the government.  
12 You would have the right to offer evidence in your own defense.  
13 And in that regard, you have a right to compel the attendance  
14 of witnesses, and the production of possible evidence, through  
15 the use of court order or subpoena. Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Mr. Zazi, at trial, you would have an  
18 absolute right to testify in your own defense, if you chose to  
19 do so. You also enjoy an absolute constitutional right to  
20 remain silent and not testify. And if you decided to do that,  
21 in consultation with counsel, and if counsel requested it of  
22 me, I would instruct the jury in the strongest possible terms  
23 that they would not be permitted in any way to hold your  
24 decision against you. Do you understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Now, Mr. Zazi, the decision whether or not  
2 to plead guilty -- whether or not to testify at trial, just  
3 like the decision whether or not to plead guilty is a personal  
4 decision that you make, not counsel. Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Obviously, these are critical decisions  
7 that you make with the assistance and guidance of counsel, but  
8 ultimately, they are your decisions to make. Do you understand  
9 that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Okay. Now, having said all of that, if  
12 you plead guilty and I accept your pleas, you'll be giving up  
13 your constitutional right to a trial and these other rights  
14 I've just explained. Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And you will give them up for all time.  
17 You understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: There will be no trial. With the possible  
20 exception of sentence, which I'll explain in a few minutes,  
21 there is no right to an appeal. I will simply enter a judgment  
22 of guilty, based upon your pleas of guilty. Do you understand  
23 that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And finally, before I can actually accept

1 your pleas, I am required, under the Federal Rules of Criminal  
2 Procedure, to satisfy myself that you are, in fact, guilty of  
3 these three charges. To do that, in just a couple of minutes,  
4 I will ask you in turn about each of the charges. In  
5 responding to my questions, obviously, you'll give up your  
6 right to remain silent. You'll give up your constitutional  
7 right not to incriminate yourself. And you'll be called upon  
8 here, in open court, to acknowledge your guilt. Do you  
9 understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Are you willing, then, to give up your  
12 right to a trial and these other rights I have just explained?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you have any questions before we  
15 proceed?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: All right. I turn my attention to a  
18 document that bears the caption of this case. It's been marked  
19 as Court Exhibit 1. It constitutes the agreement of the  
20 parties.

21 Do you have a copy in front of you, Mr. Stampur?

22 MR. STAMPUR: I do, judge.

23 THE COURT: Mr. Zazi, if I may direct your attention  
24 to it.

25 For the record, it is a ten-page typewritten document

1 containing 13 numbered paragraphs, the final page bearing a  
2 number of signatures, including, presumably, Mr. Zazi's and his  
3 counsel, along with the United States Attorneys in the case.

4 Mr. Zazi, have you read this document?

5 THE DEFENDANT: Yes, I did.

6 THE COURT: Have you read it carefully?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Do you appreciate, sir, that this document  
9 is a very important document in your life and for your future?  
10 Is that fair to say?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Have you read it with that degree of care?

13 THE DEFENDANT: Yes, I did.

14 THE COURT: Have you had sufficient time to review it  
15 with counsel?

16 THE DEFENDANT: Yes, I had.

17 THE COURT: Do you feel confident that you understand  
18 everything reflected in this agreement?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Has counsel answered any questions that  
21 you might have had?

22 THE DEFENDANT: Yes, he did.

23 THE COURT: Do you have any questions you would like  
24 to put to me?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Mr. Zazi, finally, does this agreement  
2 fully and accurately set out the full extent of your agreement  
3 with the United States Attorney?

4 THE DEFENDANT: Yes.

5 THE COURT: Counsel, can you confirm that?

6 MR. KNOX: Yes, Your Honor.

7 MR. STAMPUR: And I confirm it, Judge.

8 THE COURT: All right. We'll come back to that in  
9 just a moment. I should note for the record that there's an  
10 application pending before me, which I will address  
11 momentarily, to seal the contents of the agreement.

12 The charges are reflected, as I say, in a superseding  
13 information. And they are as follows, and there are three.

14 Count 1, conspiracy to use weapons of mass  
15 destruction, quote, In or about and between September 2008 and  
16 September 2009, both dates being approximate and inclusive,  
17 within the Eastern District of New York and elsewhere, the  
18 defendant, Najibullah Zazi, also known as Salahuddin, together  
19 with others, did knowingly and intentionally and without lawful  
20 authority conspire to use one or more weapons of mass  
21 destruction, to wit: Explosive bombs and other similar  
22 explosive devices against persons and property within the  
23 United States, and in furtherance of the offense, facilities of  
24 interstate and foreign commerce, to wit: Email and the  
25 internet were used. One or more perpetrators, to wit: The

1 defendant, Najibullah Zazi, and others traveled in interstate  
2 and foreign commerce, and the offense and the results of the  
3 offense would have affected interstate and foreign commerce.

4 Count 2, conspiracy to commit murder in a foreign  
5 country: "In or about and between January 2008 and September  
6 2008, both dates being approximate and inclusive, within the  
7 Eastern District of New York and elsewhere, within the  
8 jurisdiction of the United States, the defendant, Najibullah  
9 Zazi, also known as Salahuddin, together with others, did  
10 knowingly and intentionally conspire to commit one or more acts  
11 outside of the United States that would constitute the offense  
12 of murder, if committed in the special maritime and territorial  
13 jurisdiction of the United States, and one or more of the  
14 coconspirators -- of the conspirators did commit and act within  
15 the jurisdiction of the United States to affect an object of  
16 the conspiracy. In furtherance of the conspiracy and to affect  
17 its objectives, the defendant, Najibullah Zazi, together with  
18 others, knowingly committed and caused to be committed, among  
19 others, the following overt act: On or about August 28, 2008,  
20 the defendant, Najibullah Zazi, together with others, boarded a  
21 flight at Newark Liberty International Airport, to fly from  
22 Newark, New Jersey to Doha, Qatar and Peshawar, Pakistan."

23 Count 3, providing material support for a foreign  
24 terrorist organization: "In or between and September 2008 and  
25 September 2009, both dates being approximate and inclusive,

1 within the Eastern District of New York and elsewhere, the  
2 defendant, Najibullah Zazi, also known as Salahuddin, together  
3 with others, did knowingly and intentionally provide material  
4 support and resources as defined in 18 USC, Section 2339(a) Sub  
5 B, including currency, training, communications, equipment and  
6 personnel to a foreign terrorist organization to wit, al-Qaeda,  
7 which has been designated by the Secretary of State as a  
8 foreign terrorist organization since 1999, pursuant to Section  
9 219 of the Immigration and Nationality Act, end quote.

10 Mr. Zazi, have you read, have you reviewed these  
11 charges?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Have you reviewed them carefully?

14 THE DEFENDANT: Yes, I did.

15 THE COURT: Do you feel confident that you understand  
16 what it is that you've been charged with in each of these three  
17 counts?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you have any questions you would like  
20 to put to the Court about any of the charges reflected --

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: -- in the counts? All right.

23 Let me turn now briefly to the subject of sentencing.  
24 The agreement before the Court reflects, among other things,  
25 the statutory penalties that you face upon conviction for each



1 of these three counts, and I will review that with you now. I  
2 assume you have reviewed this information in great detail with  
3 counsel?

4 THE DEFENDANT: Yes.

5 THE COURT: With respect to Count 1, you face a period  
6 of a maximum term of imprisonment of life, and that is life  
7 without parole. There is no parole in the federal system. Do  
8 you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: You face a period of up to life,  
11 supervised -- lifetime supervised release.

12 Supervised release is a period of supervision that  
13 begins to run the moment you are released, if and when you are  
14 released from federal custody.

15 If you were to violate the terms or conditions of your  
16 supervised release at any time during the period of  
17 supervision, then under the terms of my sentence in this case,  
18 you could be returned to prison for up to five years without  
19 any credit being given to you for the time you spent at liberty  
20 under supervision. Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: The statute also provides for a fine up to  
23 an amount of \$250,000. The Court will impose a special  
24 assessment of \$100. And you should know it is virtually  
25 inevitable as a result of your conviction on any one of these

1 three charges, you will, if upon -- if and when released, be  
2 removed from the United States. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Count 2 contains, as far as I can  
5 determine, virtually identical statutory penalties.

6 MR. KNOX: Yes, Your Honor.

7 THE COURT: You should understand that these penalties  
8 may be imposed consecutively -- again, a maximum of life,  
9 lifetime supervised release, a fine of up to \$250,000, a \$100  
10 special assessment.

11 Count 3 carries a maximum term of 15 years  
12 imprisonment. Again, a maximum term of life, lifetime  
13 supervised release.

14 A violation under this count would or could result in  
15 a return to prison for up to two years, again, without credit  
16 being given to you for the time you spend at liberty under  
17 supervision. Again, a fine of up to \$250,000, and a special  
18 assessment of \$100.

19 All right. Those are the statutory penalties that the  
20 Congress of the United States has written into the laws that  
21 you are charged with violating.

22 The second aspect of the sentencing involves what we  
23 call the sentencing guidelines.

24 I would like to ask the U. S. Attorney to give us some  
25 indication as to their current thinking on the likely

1 calculation of the sentencing guidelines under each of the  
2 three counts.

3 MR. KNOX: Yes, Your Honor.

4 With respect to the Count 1, conspiracy to use weapons  
5 of mass destruction, we estimate a base offense level of 42,  
6 plus a 12-level increase under the terrorism enhancement, under  
7 3(a)1.4, for a total offense level of 54, and under the  
8 terrorism enhancement, the criminal history category is  
9 automatically set at six, which results in a guideline range of  
10 life.

11 For Count 2, the conspiracy to murder in a foreign  
12 country, the base offense level we calculate as 33, plus a 12-  
13 level terrorism enhancement, which results in a level 45, minus  
14 three points for acceptance of responsibility, results in 42,  
15 again, a criminal history category of six, which results in a  
16 sentence of 360 months to life.

17 And for Count 3, the conspiracy to provide material  
18 support to al-Qaeda, the base offense level is 26, plus a  
19 two-level enhancement for the use of explosives, plus a  
20 12-level enhancement under the terrorism enhancement, 3(a)1.4,  
21 which results in a total offense level of 40, minus three  
22 levels for a timely acceptance of responsibility, and couple  
23 that with a criminal history category of six, results in a  
24 guideline range of 360 months to life, although that would be  
25 capped by the 15-year statutory maximum for that count.

1 THE COURT: Mr. Zazi, I take it, listening to the  
2 United States Attorney, this information doesn't come as a  
3 surprise to you?

4 THE DEFENDANT: No.

5 THE COURT: You have discussed this with counsel?

6 THE DEFENDANT: Yes, I did, sir.

7 THE COURT: Now, I can tell you today -- I cannot tell  
8 you today whether or not I agree with what the United States  
9 Attorney has just said. I simply do not have the information  
10 necessary to calculate the guidelines sentencing range. Okay?

11 I won't be in a position to do that until after I have  
12 received the pre-sentence report prepared by the probation  
13 department with your input, and counsel's input and guidance,  
14 as well as that of the United States Attorney.

15 The report will tell an objective story of this case  
16 and your involvement in it. It will provide your own personal  
17 history. It will also reflect the Probation Department's  
18 recommended calculation of the guidelines sentencing range.

19 You and counsel will see that report before I do.  
20 You'll be given an opportunity to voice objections or make  
21 other comments to the Probation Department, in an attempt to  
22 influence their final report, which will ultimately come to me.  
23 At that point, with the assistance of counsel and with their  
24 input, I will calculate the advisory guidelines range.

25 THE DEFENDANT: Thank you, Your Honor.

1           THE COURT: I am not obligated to sentence you within  
2   that range. I am, however, obligated to consider as an  
3   important first step in this sentencing procedure, the advisory  
4   guidelines range. Thereafter, what the law requires of me is  
5   that I consider not only the range, but certain statutory  
6   factors that are peculiar to you as an individual, and to the  
7   offense conduct itself, as well as any other pertinent  
8   information that counsel on both sides of the aisle might bring  
9   to my attention in an effort to influence my judgment as to  
10  what is a reasonable sentence.

11           The law requires that I impose what the law recognizes  
12  to be as a reasonable sentence. If, at the end of the day, you  
13  think I've imposed an unreasonable sentence, you may seek to  
14  have my sentence reviewed by a higher court, and the fees and  
15  expenses associated with such an appeal would be paid by the  
16  court under the terms of the Criminal Justice Act. Do you  
17  understand that?

18           THE DEFENDANT: Yes, Your Honor.

19           THE COURT: The United States Attorney enjoys a  
20  comparable right. If, following sentence, they feel that my  
21  sentence has been unreasonable and on the lenient side, they,  
22  too, may seek review. Should they do that, your interest in  
23  that proceeding would be represented by counsel, paid for by  
24  the court, under the terms of the Criminal Justice Act. Do you  
25  understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: If at the time of sentence, you disagree  
3 with my calculation of the advisory guidelines range, you will  
4 not be permitted on that basis alone to withdraw your pleas of  
5 guilty. Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you have any questions before we  
8 proceed?

9 THE DEFENDANT: No.

10 THE COURT: Either of me or of counsel?

11 THE DEFENDANT: No, Your Honor.

12 THE COURT: Are you ready to plead?

13 THE DEFENDANT: Yes, Your Honor.

14 MR. STAMPUR: Your Honor, may I interject, so the  
15 Court is aware, that myself and Mr. Zazi prepared a statement  
16 that he's prepared to read to the Court, and I believe contains  
17 all the elements of the three counts within the superseding  
18 information.

19 THE COURT: I will expect nothing less, but before we  
20 get there, let me just touch all the bases here.

21 Mr. Zazi, what is your plea to Count 1, guilty or not  
22 guilty?

23 THE DEFENDANT: Guilty, Your Honor.

24 THE COURT: What is your plea to Count 2, guilty or  
25 not guilty?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: I'm sorry?

3 THE DEFENDANT: Yes, Your Honor, guilty. (Raises  
4 hand.)

5 THE COURT: What is your plea to Count 3, guilty or  
6 not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: Are you pleading guilty voluntarily?

9 THE DEFENDANT: Yes.

10 THE COURT: You have considered the case, the  
11 circumstances, the advice of counsel, and made your own  
12 decision that this is the best course of action available to  
13 you at this time? Is that a fair statement?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Has anyone threatened you in any way to  
16 plead guilty?

17 THE DEFENDANT: No.

18 THE COURT: Has anybody forced you?

19 THE DEFENDANT: No.

20 THE COURT: Has anybody made any promises as to what I  
21 might do when it comes to sentence?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: All right. Turning then back to the  
24 specific charges. Count 1 charges -- Count 1 and Count 2 -- if  
25 you'll permit me, Counts 1 and 2 of the superseding information

1 charge the crime of conspiracy. All right?

2 What, sir, is your understanding of the nature of the  
3 conspiracy? What is a conspiracy?

4 THE DEFENDANT: Two or more planned to do criminal or  
5 any kind of activity.

6 THE COURT: That's right. A conspiracy is an illegal  
7 agreement, and therefore, it requires that at least two people,  
8 two or more people conspire or agree to commit a specific  
9 offense.

10 The specific offense that is the object of the  
11 conspiracy in Count 1 is to use weapons of mass destruction,  
12 more specifically, explosive bombs and other similar explosive  
13 devices, against persons and property here in the United  
14 States, and in furtherance of that, to use the facilities of  
15 interstate commerce by virtue of the email or Internet,  
16 traveling in interstate or foreign commerce, and with the  
17 understanding or the knowledge that the offense and the results  
18 would have some effect on interstate or foreign commerce. Did  
19 you do that?

20 THE DEFENDANT: Yes.

21 THE COURT: Count 2 alleges a conspiracy to commit  
22 murder in a foreign country. Were you involved in such an  
23 illegal agreement?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And finally, Count 3 alleges the



1 substantive count for providing material support to a terrorist  
2 organization, namely al-Qaeda. Did do you that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Tell me what happened.

5 MR. STAMPUR: Judge, if I may, Counts 1 and 3 are  
6 intertwined, so I think, with the Court's permission, Mr. Zazi  
7 will read Count 2 first, and then Counts 1 and 3 will both be  
8 covered by his allocution.

9 THE COURT: That's fine. With respect to Count 2,  
10 which charges conspiracy to commit murder in a foreign country.

11 THE DEFENDANT: Your Honor, during the spring and  
12 summer of 2008, I conspired with others to travel to  
13 Afghanistan to join the Taliban and fight against the U. S.  
14 military and its allies. We made this agreement in Queens, New  
15 York, to carry out this agreement.

16 At the end of August 2008, we flew from New York  
17 airport to Peshawar, Pakistan.

18 THE COURT: Your purpose in going to Pakistan?

19 THE DEFENDANT: Was to join Taliban.

20 THE COURT: For the purpose of?

21 THE DEFENDANT: To fight alongside with the Taliban  
22 against the U. S.

23 THE COURT: With respect to Counts 1 and 3?

24 THE DEFENDANT: Yes, Your Honor. Although, our plan  
25 was to go to Afghanistan and fight with the Taliban. While we

1     were in Peshawar, we were recruited by al-Qaeda, instead. We  
2     were taken by al-Qaeda to training camp in Waziristan, where we  
3     received weapons training.

4             During the training, al-Qaeda leaders asked us to  
5     return to the United States and conduct martyrdom operation.  
6     We agreed to this plan. I did so because of my feelings about  
7     what the United States was doing in Afghanistan.

8             Later, I received more training from al-Qaeda about  
9     how to construct the explosives for attack in the United States  
10    or to carry martyrdom operation. I took notes on the training  
11    and later emailed a summary of the notes to myself, so that I  
12    could access them in the U. S.

13            During my training, I had discussion with al-Qaeda. I  
14    had discussions with al-Qaeda leaders, including target  
15    locations, such as New York City subways. I also give money  
16    and computers to al-Qaeda during that trip.

17            In January 2009, I come back to United States.  
18    Beginning around June 2009, I accessed my bomb-making notes and  
19    began researching where to find the ingredients for the  
20    explosives.

21            I also took trips to New York, and meet with others to  
22    discuss the plan, including the timing of the attack, and where  
23    to make the explosives.

24            I then used the bomb-making notes to construct  
25    explosive for the detonators in Denver. The explosives was

1 Acetone Peroxide.

2 In early September 2009, I drove to New York with the  
3 detonator explosive and other materials necessarily --  
4 necessary to build a bombs.

5 I arrived in New York City on Thursday, September  
6 10th. And we intend to obtain and assemble the remaining  
7 components to build a bomb over the weekend.

8 The plan was to conduct martyrdom operation on subway  
9 lines in Manhattan as soon as the material were ready, Monday,  
10 Tuesday or Wednesday.

11 When I arrived in New York City, I realized that law  
12 enforcement was investigating me. At that point, we threw away  
13 the detonator explosives and other materials, and I flew back  
14 to Denver, and I was arrested just a few days after.

15 THE COURT: You used the word "bomb." Do you mean  
16 bomb or bombs?

17 THE DEFENDANT: Bombs.

18 THE COURT: Plural?

19 THE DEFENDANT: Plural.

20 THE COURT: And you say you met in New York with  
21 others. Are they al-Qaeda representatives?

22 THE DEFENDANT: No.

23 THE COURT: But others who are involved in this  
24 activity?

25 THE DEFENDANT: Yeah.

1 THE COURT: And you used the phrase "martyrdom  
2 activities." Is that in the nature of a suicide bomber?

3 THE DEFENDANT: Yes, Your Honor. I have a different  
4 explanation to that. To me, it meant that I would sacrifice  
5 myself to bring attention to what the United States military  
6 was doing to civilian in Afghanistan by sacrificing my soul for  
7 the sake of saving other souls.

8 THE COURT: And did your plan include specific targets  
9 within the subway system?

10 THE DEFENDANT: Wasn't sure, but yes.

11 THE COURT: Anything else?

12 MR. KNOX: No, Your Honor. We believe that's  
13 sufficient on all of the charges.

14 THE COURT: Any questions you would like to put to me  
15 before we conclude the proceedings?

16 THE DEFENDANT: Thank you. No, Your Honor.

17 THE COURT: Based on the information that has been  
18 given to me, I find that the defendant fully understands his  
19 rights, the consequences and possible consequences of his  
20 pleas, and that there is on the record of this proceeding a  
21 factual bases for these pleas. I therefore accept the pleas of  
22 guilty to Counts 1, 2 and 3 of superseding information, bearing  
23 Docket Number 09 CR 663, S-1.

24 I urge to you to cooperate, Mr. Zazi, with the  
25 Probation Department, consistent, of course, with the advice of

1 counsel, in their preparation of the pre-sentence report.

2 I would ask the U. S. Attorney to maintain custody of  
3 the original agreement. I have, as I noted earlier, received a  
4 sealed application, to seal the contents of the agreement  
5 between the parties. Obviously, I've heard from no third  
6 parties on that. But on the basis of what I've heard and  
7 without prejudice to the application of any third parties, I  
8 grant the application, pending any further application, and  
9 direct the sealing of the agreement between the parties.

10 Is there anything further?

11 MR. KNOX: Your Honor, we have a sentencing date  
12 scheduled for June 25th, at 11 a. m.

13 THE COURT: Okay. Got that? And that is your date?

14 THE CLERK: Yes. Yes, indeed.

15 THE COURT: Anything else, Mr. Stampur?

16 MR. STAMPUR: No Your Honor.

17 THE COURT: Mr. Zazi, anything you would like to ask  
18 me before we conclude?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Gentlemen?

21 MR. KNOX: Thank you, Judge.

22 MR. BITKOWER: Thank you, Your Honor.

23 THE CLERK: Mr. Stampur, I'm going to note for the  
24 Probation Department that you wish to be present at the time  
25 your client is interviewed.

1 MR. STAMPUR: I would like to be present.

2 THE CLERK: Yes.

3 (Proceedings concluded.)

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